

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT
SEATTLE

PATTI WILLIAMS,

Plaintiff

v.

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA;
MICROSOFT CORPORATION
WELFARE PLAN; and MICROSOFT
CORPORATION, in its capacity as Plan
Administrator,

Defendants.

No. 2:18-cv-00959

COMPLAINT FOR DECLARATION OF
RIGHT TO BENEFITS, FOR RECOVERY OF
BENEFITS, FOR CLARIFICATION OF
RIGHT TO FUTURE BENEFITS AND FOR
EQUITABLE RELIEF

COMES NOW THE PLAINTIFF, Patti Williams, and alleges as follows:

I. NATURE OF ACTION

1.1 This action arises under the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 *et seq.*, and specifically under 29 U.S.C. § 1132(a)(1)(B) and 29 U.S.C. § 1132(a)(3).

1.2 Ms. Williams brings this action for the purpose of recovering benefits under the terms of an employee benefit plan, enforcing her rights under that Plan, and clarifying her rights

1 to future benefits under the Plan. She seeks relief, including but not limited to, a declaration of
2 her right to disability benefits, equitable relief to remedy Defendants' failure to comply with
3 ERISA, prejudgment and postjudgment interest, and attorneys' fees and costs.

4 **II. JURISDICTION AND VENUE**

5 2.1 This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and 29
6 U.S.C. §1132(e)(1).

7 2.2 Venue is proper pursuant to 29 U.S.C. §1132(e)(2) and 28 U.S.C. §1391.

8 **III. PARTIES**

9 3.1 Plaintiff Patti Williams is an adult residing in King County, Washington.

10 3.2 Defendant The Prudential Insurance Company of America is a foreign corporation
11 engaged in the business of insurance and authorized to sell insurance in Washington State.

12 3.3 Defendant Microsoft Corporation Welfare Plan is an "employee benefit plan" within
13 the meaning of 29 U.S.C. § 1002(3).

14 3.4 Defendant Microsoft Corporation is a Washington corporation. It is sued here in its
15 capacity as Plan Administrator of the Microsoft Corporation Welfare Plan.

16 **IV. FACTUAL ALLEGATIONS**

17 4.1 The Prudential Insurance Company of America ("Prudential") is a foreign
18 corporation authorized to sell insurance, including disability insurance, in Washington State.
19 Prudential resides, or may be found, in the Western District of Washington.

20 4.2 The Microsoft Corporation Welfare Plan ("the Plan") is an "employee benefit plan"
21 within the meaning of 29 U.S.C. § 1002(3).

22 4.3 Microsoft Corporation ("Microsoft") is a Washington corporation. It is the Plan
23 Administrator of the Plan.
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1 4.4 Microsoft is an “administrator,” within the meaning of 29 U.S.C. § 1002(16), of the
2 Plan.

3 4.5 Microsoft is a “named fiduciary” of the Plan pursuant to 29 U.S.C. § 1133(2); and/or
4 a “deemed fiduciary” pursuant to 29 U.S.C. § 1002 (21)(A); and/or a “designated fiduciary”
5 pursuant to 29 U.S.C. § 1105(c)(1)(B).
6

7 4.6 Among other benefits, the Plan provides long-term disability benefits to Microsoft
8 employees who are participants in the Plan.

9 4.7 Prudential issued an insurance policy to Microsoft, Group Contract Number G-
10 43994-WA (“the Policy”), which insures the Plan’s long-term disability benefits.

11 4.8 Prudential is an “administrator,” within the meaning of 29 U.S.C. § 1002(16), of
12 those portions of the Plan which concern long-term disability benefits.
13

14 4.9 Prudential exercises authority or control respecting the management or disposition of
15 the Plan assets and is therefore a “fiduciary” of the Plan as that term is defined by 29 U.S.C. §
16 1002(21); and/or is a “named fiduciary” of the Plan pursuant to 29 U.S.C. § 1133(2) and/or is a
17 “designated fiduciary” of the Plan pursuant to 29 U.S.C. § 1105(c)(1)(B).

18 4.10 Prudential is a claims fiduciary with respect to those portions of the Plan which
19 concern long-term disability benefits.
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21 4.11 Prudential provides administrative services to the Plan, including evaluation of
22 long-term disability claims made under the Plan.

23 4.12 Prudential purports to have authority to make determinations regarding Plan
24 participants’ eligibility for, and entitlement to, long-term disability benefits.

25 4.13 The Plan provides long-term disability benefits to Plan participants who are
26 “disabled” within the meaning of the Plan and otherwise eligible to receive such benefits.
27

1 4.14 Ms. Williams began working for Microsoft in 2003.

2 4.15 Ms. Williams is an “employee,” within the meaning of 29 U.S.C. § 1002(6), of
3 Microsoft.

4 4.16 Ms. Williams is a “participant,” within the meaning of 29 U.S.C. § 1002(7), of the
5 Plan.
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7 4.17 Ms. Williams is a “beneficiary,” within the meaning of 29 U.S.C. § 1002(8), of the
8 Plan.

9 4.18 The Plan states as follows in relevant part:

10 How Does Prudential Define Disability?

11 You are disabled when Prudential determines that, due to your sickness or injury:

12 • you are unable to perform the material and substantial duties of your regular
13 occupation, or you have a 20% or more loss in your monthly earnings; and

14 • you are under the regular care of a doctor, and

15 After 24 months of payments, you are disabled when Prudential determines that
16 due to the same sickness or injury:

17 • you are unable to perform the duties of any gainful occupation for which you are
18 reasonably fitted by education, training or experience; and

19 • you are under the regular care of a doctor.

20 4.19 The Plan provides that long-term disability benefits are paid after a 180-day
21 “Elimination Period.”

22 4.20 Ms. Williams became disabled on or about November 1, 2016, in that, due to
23 sickness, she was unable to perform the material and substantial duties of her regular occupation,
24 and was under the regular care of a doctor.
25

26 4.21 Ms. Williams applied for long-term disability benefits under the Plan.
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1 4.22 Defendants agreed Ms. Williams was disabled, and, in accordance with the Plan's
2 180-day Elimination Period, she began to receive long-term disability benefits under the Plan,
3 effective May 2, 2017.

4 4.23 On June 19, 2017, Prudential directed Ms. Williams to apply for Social
5 Security Disability Insurance ("SSDI") benefits, and stated that it would provide her
6 legal representation to help with that application, through a business called Allsup.

7 4.24 Ms. Williams agreed to accept Prudential's offer of free legal
8 representation to help her obtain SSDI benefits. Prudential maintained contact with
9 Allsup during the pendency of Ms. Reetz's application for SSDI benefits and through
10 the various levels of administrative appeal.

11 4.25 Through its agent Allsup, Prudential was in privity with Ms. Williams
12 throughout the Social Security proceedings, and with Ms. Williams asserted therein that
13 her impairments were "of such severity that [she] is not only unable to do [her] previous
14 work but cannot, considering [her] age, education and work experience, engage in any
15 other kind of substantial gainful work which exists in the national economy...." 42
16 U.S.C. § 423(d)(2)(A).

17 4.26 On November 13, 2017, the Social Security Administration advised Ms.
18 Williams that it had determined she was disabled under its rules, that is, that her
19 impairments were "of such severity that [she] is not only unable to do [her] previous
20 work but cannot, considering [her] age, education and work experience, engage in any
21 other kind of substantial gainful work which exists in the national economy...." 42
22 U.S.C. § 423(d)(2)(A).

1 4.27 On November 27, 2017, Prudential noted that Allsup had recovered Ms.
2 Williams' retroactive SSDI benefits, and was transferring \$12,378.00 of those benefits
3 to Prudential.

4 4.28 Defendants terminated Ms. Williams' disability benefits effective November 30,
5 2017.

6 4.29 Ms. Williams appealed that determination on or about May 3, 2018.

7 4.30 Prudential received Ms. Williams' appeal on May 5, 2018.

8 4.31 Pursuant to 29 C.F.R. § 2560.503-1(i)(1)(i) and (i)(3)(i), Prudential was required to
9 notify Ms. Williams of its determination on her appeal within 45 days, that is, by June 19, 2018.

10 4.32 Pursuant to 29 C.F.R. § 2560.603-1(i)(1)(i) and (i)(3)(i), Prudential was allowed
11 additional time to make a determination on an appeal only where "special circumstances" exist.

12 4.33 Prudential has a written policy which states that it must make a decision on an
13 appeal not later than 45 days after receipt of the appeal, unless special circumstances beyond
14 Prudential's control require an extension of time for processing the appeal.

15 4.34 No special circumstances existed here which allowed Prudential to take longer than
16 45 days to make a determination on Ms. Williams' appeal.

17 4.35 On June 6, 2018, Ms. Williams wrote Prudential, cited the above regulations
18 requiring a determination to be made within 45 days, cited two published federal cases holding
19 that the need to conduct a medical or vocational review does not constitute "special
20 circumstances" within the meaning of those regulations, and provided a copy of Prudential's own
21 written policy stating that it must make a decision on an appeal not later than 45 days after
22 receipt of the appeal, unless special circumstances beyond Prudential's control require an
23 extension of time for processing the appeal.
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1 4.36 On June 18, 2018, Prudential wrote Ms. Williams and, without identifying any
2 special circumstances, stated it was “unable to complete our review” and “require[d] an
3 extension of up to 45 days to make an appeal determination on her LTD claim” because it was
4 “awaiting the physician file review report to come back.”
5

6 4.37 Prudential failed to comply with the requirements of 29 C.F.R. § 2560.503-1(i)(1)(i)
7 regarding any extension of the time in which to make that determination, and thereby failed to
8 establish and/or follow reasonable claims procedures.

9 4.38 No circumstances beyond Prudential’s control required it to take more than 45 days
10 to make a determination on Ms. Williams’ appeal.

11 4.39 Pursuant to 29 C.F.R. § 2560.503-1(l), because Prudential failed to establish and/or
12 follow reasonable claims procedures, Ms. Williams is deemed to have exhausted her
13 administrative remedies under the Plan and is entitled to file this action.
14

15 4.40 Prudential has failed to establish administrative processes and safeguards (as those
16 terms are used in 29 C.F.R. § 2560.503-1) to ensure and verify appropriately consistent decision
17 making.

18 4.41 Prudential has failed to train and/or supervise its employees and/or has failed to
19 ensure that its employees managing appeals, are aware of, or follow, administrative processes
20 and safeguards intended to ensure and verify appropriate and consistent decision making.
21

22 4.42 On information and belief, Prudential regularly and routinely violates ERISA in
23 that, without basis and without any “special circumstances” to justify doing so, it fails to make
24 any determination on participants’ appeals within the 45 days allowed by ERISA’s claims
25 management regulations; and, further, regularly and routinely violates ERISA in that, without
26 basis and without any “special circumstances” to justify doing so, it avails itself of an additional
27

1 45 days or some other amount of time close to 45 days to make determinations on participants'
2 appeals.

3 4.43 Prudential deliberately delays making determinations on participants' appeals
4 because by doing so it is able to delay making payment to those participants who ultimately
5 recover the benefits due to them. In like manner, Prudential deliberately denies claims it knows
6 to be meritorious in order to delay making payment to those participants.

7
8 4.44 By repeatedly and consistently delaying payment on valid claims, and by repeatedly
9 and consistently denying valid claims, Prudential is able to earn additional money from
10 investments on the money it holds and which it uses to pay claims.

11 4.45 Because of the volume of disability claims that it manages – and pays – Prudential
12 is able to earn substantial money by delaying payment on claims and by denying claims which it
13 knows to be valid and meritorious.

14
15 4.46 One of the means Prudential uses to delay payment on claims is to delay making
16 determinations on appeals, as it did with Plaintiff's appeal.

17 4.47 Prudential has consistently, systematically and deliberately failed to establish and/or
18 follow and/or maintain reasonable claims procedures as required by ERISA.

19 4.48 Prudential violates ERISA in the manner described above, and as described in
20 Paragraphs 5.11 A-F below, in order to increase its profits.

21
22 4.49 Microsoft, in its capacity as Plan Administrator, is aware of Prudential's practice to
23 delay claims and appeals; Prudential's practice to unreasonably deny claims; and Prudential's
24 failure to properly train and/or supervise its employees and/or its failure to create and/or maintain
25 adequate administrative processes and safeguards in order to ensure and verify appropriate and
26 consistent decision making.
27

1 4.50 Microsoft, in its capacity as Plan Administrator, is aware of Prudential's wrongful
2 conduct in managing disability claims under the Plan, as that conduct is described above and in
3 Paragraphs 5.11 A-F below.

4 4.51 Microsoft, in its capacity as Plan Administrator, tolerates Prudential's violations of
5 ERISA and of the Plan, and does nothing to correct or remedy those violations.
6

7 4.52 Microsoft, in its capacity as Plan Administrator, has thus failed to establish and
8 maintain a procedure or procedures by which Plan participants seeking long-term disability
9 benefits shall have a full and fair review of their claims and of adverse benefit determinations.

10 4.53 The Microsoft Corporation Welfare Plan is aware of Prudential's practice to delay
11 claims and appeals; Prudential's practice to unreasonably deny claims; and Prudential's failure to
12 properly train and/or supervise its employees and/or its failure to create and/or maintain adequate
13 administrative processes and safeguards in order to ensure and verify appropriate and consistent
14 decision making.
15

16 4.54 The Microsoft Corporation Welfare Plan is aware of Prudential's wrongful conduct
17 in managing disability claims under the Plan, as that conduct is described above and in
18 Paragraphs 5.11 A-F below.

19 4.55 The Microsoft Corporation Welfare Plan tolerates Prudential's violations of ERISA
20 and of the Plan, and does nothing to correct or remedy those violations.
21

22 4.56 The Microsoft Corporation Welfare Plan has thus failed to establish and maintain a
23 procedure or procedures by which Plan participants seeking long-term disability benefits shall
24 have a full and fair review of their claims and of adverse benefit determinations.

25 4.57 Prudential was both the decision-maker with respect to Ms. Williams' claim for
26 long-term disability benefits, and the entity that would pay those benefits.
27

1 4.58 Because it was both decision-maker and the payor with respect to Ms. Williams’
2 claim for long-term disability benefits, Prudential had a conflict of interest.

3 4.59 Prudential’s conflict of interest affected its management of Ms. Williams’ claim for
4 disability benefits and was a reason for its denial of her application for benefits.

5 4.60 Ms. Williams has remained disabled under the Plan since November 30, 2017, in
6 that, due to sickness, she has been and remains unable to perform the material and substantial
7 duties of her regular occupation, and has been under the regular care of a doctor.

8 4.61 Ms. Williams has been eligible for, and entitled to receive, long-term disability
9 benefits under the Plan since November 30, 2017.

10 4.62 As a result of Defendants’ violations of ERISA and of the Plan, and specifically as
11 a result of Defendants’ termination of the benefits to which she is entitled and the attendant delay
12 in recovering those benefits, Ms. Williams has suffered financial losses and harm, including but
13 not limited to, withdrawing money from retirement funds in order to get by, incurring financial
14 penalties, incurring additional interest on credit card charges she has been compelled to make
15 because of her lack of disability benefits, and damage to her credit.

16 4.63 Ms. Williams seeks to seeks to enjoin Defendants’ improper claims handling
17 activities and practices, so that those activities and practices do not again result in wrongful
18 termination of her benefits and future delays receiving those benefits.

19 4.64 Section 502(a)(1)(B) of ERISA does not provide an adequate remedy to address
20 Ms. Williams’ injuries and harms described in the preceding two paragraphs.

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V. STATEMENT OF CLAIMS

29 U.S.C. § 1132(a)(1)(B):

5.1 Plaintiff re-alleges and incorporates by reference Paragraphs 4.1 through and including 4.64 above.

5.2 Under the terms of the Plan, Plaintiff has been and remains continuously disabled within the meaning of the Plan and eligible and entitled to receive long-term disability benefits from November 30, 2017 forward.

5.3 By denying that Plaintiff was disabled under the terms of the Plan, and by refusing to pay Plaintiff disability benefits, Defendants violated the terms of the Plan and denied Plaintiff her rights under the Plan.

5.4 Pursuant to 29 U.S.C. § 1132(a)(1)(B), Plaintiff seeks to recover the long-term disability benefits due her under the Plan, to enforce her rights under the Plan and to clarify her rights to future benefits under the Plan.

5.5 Pursuant to 29 U.S.C. § 1132(a)(1)(B), Plaintiff seeks a Declaration from this Court, as described below, that she is entitled to long-term disability benefits under the Plan, and an Order from this Court directing Defendants to pay her those benefits in accordance with the Plan's terms.

29 U.S.C. § 1132(a)(3):

5.6 Plaintiff re-alleges and incorporates by reference Paragraphs 4.1 through and including 4.64 above.

5.7 At all material times herein, Prudential was a fiduciary of the Plan with respect to its exercise of authority over the management of the Plan, disposition of Plan assets, and administration of the Plan.

1 5.8 Prudential has various fiduciary duties under the Plan.

2 5.9 Plaintiff's claim for benefits due under the Plan does not provide her with an
3 adequate remedy at law in light of Prudential's continuing course of conduct in violating the
4 terms of the Plan and applicable law as described herein.

5 5.10 Prudential is obliged to discharge its duties solely in the interests of beneficiaries
6 and participants for the exclusive purpose of providing beneficiaries and participants with all
7 benefits due, defraying reasonable expenses of the Plan, and to do so using all prudent skill and
8 diligence in accordance with the documents and instruments governing the Plan.

9 5.11 At all times material herein, Prudential violated these duties by, among other acts
10 and omissions:

11 A. Consciously, unreasonably and intentionally and without justification delaying and
12 then denying Plaintiff's appeal, thereby compelling Plaintiff to file suit;

13 B. Consciously and unreasonably failing to investigate all bases upon which to pay and
14 honor Plaintiff's claim, and related claims and/or similar claims for benefits, fairly and in good
15 faith and refusing to give Plaintiff's interests or the interests of the Plan at least as much
16 consideration as it gave its own;

17 C. Consciously and unreasonably failing to adopt and implement reasonable or proper
18 standards applicable to the prompt and fair investigation, processing and adjudication of
19 Plaintiff's appeal, and related appeals and/or similar appeals, under the Plan;

20 D. Consciously and unreasonably engaging in a selective review of the evidence
21 presented in an effort to minimize the evidence supporting the continuation of benefits while
22 focusing exclusively on evidence supporting the termination of benefits;

1 E. Consciously and unreasonably failing to establish administrative processes and
2 safeguards (as those terms are used in 29 C.F.R. § 2560.503-1) to ensure and verify appropriately
3 consistent decision making; and

4 F. Consciously and unreasonably failing to train and/or supervise its employees, to
5 ensure that they are aware of, and follow, administrative processes and safeguards intended to
6 ensure and verify appropriate and consistent decision making.

7
8 5.12 Plaintiff hereby requests a judgment permanently enjoining Prudential to establish
9 administrative processes and safeguards (as those terms are used in 29 C.F.R. § 2560.503-1) to
10 ensure and verify appropriately consistent decision making; and enjoining Prudential to train
11 and/or supervise its employees to ensure that they are aware of, and follow, administrative
12 processes and safeguards intended to ensure and verify appropriate and consistent decision
13 making.
14

15 5.13 At all material times herein, Microsoft was a fiduciary of the Plan with respect to its
16 exercise of authority over the management of the Plan, disposition of Plan assets, and
17 administration of the Plan.

18 5.14 In its capacity as Plan Administrator, and as a named fiduciary of the Plan,
19 Microsoft had various fiduciary duties under the Plan.
20

21 5.15 Microsoft was obliged to discharge those duties solely in the interests of
22 beneficiaries and participants for the exclusive purpose of providing beneficiaries and
23 participants with all benefits due, defraying reasonable expenses of the Plan, and to do so using
24 all prudent skill and diligence in accordance with the documents and instruments governing the
25 Plan.
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1 5.16 Microsoft is aware of Prudential's practices to unreasonably delay management of
2 disability claims under the Plan; Prudential's practice to unreasonably deny such claims;
3 Prudential's failure to properly train and or supervise its employees and/or its failure to create
4 and/or maintain adequate administrative processes and safeguards in order to ensure and verify
5 appropriate and consistent decision making; and Prudential's other violations of its fiduciary
6 duties as described above in Paragraph 5.11. Microsoft tolerates these violations of ERISA and
7 of the Plan, and does nothing to correct or remedy those violations.
8

9 5.17 Microsoft has thus breached its fiduciary obligations under the Plan and under
10 ERISA.

11 5.18 The Microsoft Corporation Welfare Plan is aware of Prudential's practices to
12 unreasonably delay management of disability claims under the Plan; Prudential's practice to
13 unreasonably deny such claims; Prudential's failure to properly train and or supervise its
14 employees and/or its failure to create and/or maintain adequate administrative processes and
15 safeguards in order to ensure and verify appropriate and consistent decision making; and
16 Prudential's other violations of its fiduciary duties as described above in Paragraph 5.11. The
17 Microsoft Corporation Welfare Plan tolerates these violations of ERISA and of the Plan, and
18 does nothing to correct or remedy those violations.
19

20 5.19 The Microsoft Corporation Welfare Plan has thus breached its fiduciary obligations
21 under the Plan and under ERISA.
22

23 5.20 The Microsoft Corporation Welfare Plan has failed to establish and maintain a
24 procedure or procedures by which claimants seeking long-term disability benefits shall have a
25 full and fair review of their claims and full and fair review of adverse benefit determinations, and
26 is thus in violation of its duties under ERISA.
27

VI. PRAYER FOR RELIEF

Plaintiff prays for entry of judgment as follows:

6.1 That this Court declare that Plaintiff was continuously disabled within the meaning of the Plan and eligible and entitled to receive long-term disability benefits from November 30, 2017 through the time of trial;

6.2 That this Court declare that Defendants, by denying Plaintiff disability benefits and refusing to pay Plaintiff disability benefits, violated the terms of the Plan and denied Plaintiff her rights under the Plan;

6.3 That this Court order Defendants to pay Plaintiff the long-disability benefits she was entitled to receive since November 30, 2017 through the time of trial, together with prejudgment interest on each and every such monthly payment through the date judgment is entered herein;

6.4 That this Court enjoin Prudential to establish administrative processes and safeguards (as those terms are used in 29 C.F.R. §2560.503-1) to ensure and verify appropriately consistent decision making; and enjoin Defendant Prudential to train and/or supervise its employees to ensure that they are aware of, and follow, administrative processes and safeguards intended to ensure and verify appropriate and consistent decision making;

6.5 That this Court enjoin Microsoft, in its capacity as Plan Administrator, to establish administrative processes and safeguards (as those terms are used in 29 C.F.R. §2560.503-1) to ensure and verify appropriately consistent decision making; and enjoin it to ensure that Plan fiduciaries, including Prudential, train and/or supervise their employees to ensure that they are aware of, and follow, administrative processes and safeguards intended to ensure and verify appropriate and consistent decision making;

6.8 That this Court order Defendants to continue to pay Plaintiff long-term disability benefits so long as she remains disabled under the terms of the Plan;

6.10 That Plaintiff be awarded any additional and further relief which this Court finds just and equitable.

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